

Appl. No. 10/615,110
Amdt. Dated November 13, 2006
Reply to Office Action of May 19, 2006

Docket No. CE11057J1210 – Mathews, et al.
Customer No.: 24273

REMARKS/ARGUMENTS

Claims 1-16 remain pending in the application, as claims 17-24 have been canceled in view of a previous restriction requirement. In the office action, claims 1-16 were provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-11 of co-pending Application No. 10/663,305 ("the '305 application). Applicants confirm common ownership of this present application and the '305 application, and direct the Examiner's attention to the attached terminal disclaimer.

In addition, claims 1-16 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0216054 to Mathews, et al. (Mathews) in view of WO 99/38066 to Sinclair (Sinclair). Applicants note that Mathews was owned by Motorola, Inc. at the time the present invention was conceived, which was subject to an obligation of assignment to Motorola, Inc. at that time, and is considered 102(e) art, as its publication date is subsequent to the filing of the present application. As such, Mathews is disqualified as prior art under 35 U.S.C. 103(c). Thus, Applicants submit that claims 1-16 are patentable over the cited prior art.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

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In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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